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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 21, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE-2001-00297

Ex Parte: In the matter of
establishing rules and regulations
pursuant to the Virginia Electric
Utility Restructuring Act for
consolidated billing services

ORDER ADOPTING RULES AND REGULATIONS

On May 24, 2002, the Staff of the State Corporation Commission ("Staff") filed in this proceeding its Staff Report and proposed rules for implementing consolidated billing services by licensed competitive service providers ("CSPs"), consistent with § 56-581.1 of the Virginia Electric Utility Restructuring Act, § 56-577 et seq. of the Code of Virginia ("Code").

Pursuant to prior orders of the Commission, the Staff conducted an investigation, with input from a work group, and developed proposed rules as may be necessary to implement the offering of consolidated billing services by licensed CSPs to local distribution companies ("LDCs") and retail customers. The Staff invited representatives of interested parties to participate in the work group to facilitate the development of the required regulations. The Staff's proposed rules were the

result of extensive work group meetings identifying and evaluating consolidated billing issues.

On May 28, 2002, the Commission issued an order, which attached the Staff's proposed amendments to 20 VAC 5-312-90 of the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). The proposed rules addressed consolidated billing by CSPs. Among other things, the proposed rules included the requirements that a CSP must meet to offer consolidated billing services. A CSP would be required to provide written advance notice to the LDC and the Commission's Division of Energy Regulation and Division of Economics and Finance prior to an initial offering of consolidated billing service. In addition, a CSP would be required to establish such financial security as the Commission may require for such CSP's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes. Other proposed rules addressed disconnection for nonpayment of regulated service charges to the LDC where the CSP is the billing party, as well as certain state, local, and special regulatory consumption tax collection processes.

The order of May 28, 2002, also directed that the proposed rules be published in the Virginia Register of Regulations and permitted interested parties to file written

comments and requests for hearing on the proposed rules and the Staff Report. On or before June 27, 2002, interested parties filed written comments. The Commission received no requests for hearing.

NOW THE COMMISSION, upon consideration of the record established herein, the filed comments, and the applicable law, is of the opinion and finds that the rules governing consolidated billing services attached hereto should be adopted as final, effective on and after January 1, 2003. We commend the participants for their efforts in addressing amendments to these rules governing competitive consolidated billing services. The remainder of this Order will discuss certain issues raised in the written comments.

The Virginia Municipal League/Virginia Association of Counties ("VML/VACO") requests that the Commission delay for one year (from January 1, 2003, to January 1, 2004) the effective date of consolidated billing by CSPs. Section 56-581.1 B of the Code provides that, effective January 1, 2003, CSPs may offer consolidated billing services. VML/VACO notes that the Commission, upon its own motion pursuant to § 56-581.1 C of the Code, may delay consolidated billing by one year. We conclude, however, that VML/VACO has not established, as we must find under § 56-581.1 C, that a delay is necessary at this time to resolve issues related to billing

accuracy, timeliness, quality, consumer readiness, or adverse effects upon the development of competition.

We have not included in the attached rules additional requirements requested by VML/VACO that each CSP: (i) agree to a procedure with each locality to assure that the CSP knows the proper amount of tax to collect and the proper amount to remit to each affected local jurisdiction; and (ii) agree with each locality to collect and remit the proper tax amounts. Local utility consumer taxes are subject to various local jurisdictional requirements, and each CSP must collect and remit local utility consumer taxes based on existing law. In addition, the Retail Access Rules currently require that CSPs undertake coordination efforts with each affected locality regarding the obligation to collect and remit taxes (20 VAC 5-312-90 A 1 d).

VML/VACO also requests that the proposed rules on financial security be modified to encompass local utility consumer taxes. We reject VML/VACO's request to require each CSP to enter into a separate agreement with each locality, in the form each locality may require, for reasonable financial security; such a requirement would place an unreasonable burden on CSPs attempting to provide competitive billing services. Rather, we have adopted VML/VACO's alternative proposal and modified 20 VAC 5-312-90 A 2 as follows:

The competitive service provider shall establish such financial security as the State Corporation Commission may require for such competitive service provider's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes and local utility consumer taxes.

VML/VACO and American Electric Power ("AEP") separately request modifications to 20 VAC 5-312-90 H 2 b. This rule addresses a CSP's obligation to remit local consumption and consumer taxes and reports to each locality. VML/VACO requests that the rules require CSPs: (i) to use a standardized tax report format to be developed by the localities; and (ii) to submit to reasonable audit requests by local governments. We will not modify the rules to address the localities' authority to audit CSPs, or to mandate that CSPs follow a specific reporting format that is yet to be developed. We encourage the localities and CSPs, however, to develop a standardized reporting format to aid both parties in this regard.

AEP asserts, among other things, that requiring payment to each locality on a specified day may conflict with local ordinances on tax remittance. We find that the rule should be modified to avoid this potential conflict. We have modified 20 VAC 5-312-90 H 2 b as follows:

Submit simultaneously, ~~on or before the last day of the succeeding month of collection~~ in accordance with the Code of

Virginia and local ordinance, to each local government in whose jurisdiction the taxes have been collected, the payment of the preceding month's local consumption taxes and local utility consumer taxes and associated monthly tax remittance reports.

The Virginia Electric Cooperatives ("Cooperatives") request that 20 VAC 5-312-90 B be modified to reference explicitly the statutory exemption for municipalities and cooperatives regarding competitive billing. We find, as explained by the Cooperatives, that the requested reference may help inform CSPs of the statutory exemptions. We have therefore modified 20 VAC 5-312-90 B as follows:

ASubject to the exemptions applicable to municipal electric utilities and utility consumer service cooperatives set forth in § 56-581.1 J of the Code of Virginia, a competitive service provider shall coordinate the provision of the customer-selected billing service with the local distribution company by any means specified by VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

Dominion Virginia Power requests a change to 20 VAC 5-312-90 C 5. Specifically, Dominion Virginia Power requests that the rule be modified to explicitly require a CSP to "comply with," rather than to "accommodate," the LDC's normal billing and credit cycle requirements for distribution service. We will adopt this request. While it is always important to avoid billing errors and customer confusion, it

is particularly important as the Commonwealth transitions to retail competition. The requested change clarifies that full compliance is expected from the CSPs in this regard. We also note that this rule does not preclude a CSP from entering into unique arrangements with the customer for supply service billing. We have modified 20 VAC 5-312-90 C 5 as follows:

~~Accommodate~~ Comply with the local distribution company's normal billing and credit cycle requirements for distribution service.

AEP asserts that the rules should be restructured to ensure that only the LDC sends a disconnection notice - i.e., the customer should not receive a disconnection notice from the CSP as well. Although we do not adopt the particular changes suggested by AEP, we have modified 20 VAC 5-312-90 I 7 to clarify that CSPs do not send disconnection notices:

In the event a disconnection notice for nonpayment is included on a customer bill issued by the local distribution company, the notice shall appear on the first page of the bill and be emphasized in a manner that draws immediate attention to such notice. The notice shall clearly identify the amount that must be paid and the date by which such amount must be paid to avoid disconnection.

Washington Gas Light requests that CSPs provide LDCs additional numeric fields and text characters on a CSP's consolidated bill. We will not make the requested modification at this time. The rules currently require the

billing party to provide the non-billing party with six numeric fields and 240 text characters. This appears reasonable. If actual experience shows this to be unworkable, however, then possible changes could be addressed at a later date.

Finally, the LDCs propose to implement an interim electronic data interchange ("EDI") workaround approach. This workaround approach is not part of the rules. Rather, the workaround approach recognizes that standardized business practices and EDI protocols, outside the scope of these rules, will be needed to implement consolidated billing on a sufficient scale. The LDCs explain that the workaround approach is necessary at this time due to, among other things, the nascent stage of competitive billing and the costs involved in establishing a permanent approach. We find that the LDCs' EDI workaround proposal is reasonable on an interim basis and should be coordinated with the Virginia Electronic Data Transfer Working Group. A permanent approach, however, will be needed at some point as the market for these services develops. Thus, the interim EDI workaround will need to be replaced with standardized business practices and EDI protocols as the competitive market develops and the volume of competitive billing increases.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Regulations amending 20 VAC 5-312-90 of the Rules Governing Retail Access to Competitive Energy Services are adopted as set forth in Attachment A to this Order, effective January 1, 2003.

(2) A copy of this Order and the rules attached hereto shall be forwarded promptly for publication in the Virginia Register of Regulations.

(3) Local distribution companies shall file revised supplier tariffs and/or agreements as necessary to reflect the rules adopted herein at least 60 days in advance of implementation of competitive service provider consolidated billing within the local distribution company's respective service territory.

(4) There being nothing further to come before the Commission in this case, it shall be removed from the docket and the papers filed herein placed in the file for ended causes.

CHAPTER 312.

RULES GOVERNING RETAIL ACCESS

TO COMPETITIVE ENERGY SERVICES.

20 VAC 5-312-90. Billing and payment.

A. A competitive service provider shall offer separate billing service or consolidated billing service ~~by~~, where either the local distribution company, or both the competitive service provider would be the billing party, to prospective customers pursuant to § 56-581.1 of the Code of Virginia and the local distribution company's tariff approved by the State Corporation Commission. Where a competitive service provider would be the billing party, prior to an initial offering of consolidated billing service to customers within the service territory of each local distribution company, and after certification as required by 20 VAC 5-312-20 L, the competitive service provider shall abide by the following requirements:

1. The competitive service provider shall provide written notice, at least 30 days in advance, to the local distribution company and to the State Corporation Commission's Division of Energy Regulation and Division of Economics and Finance. The written notification to the

Division of Energy Regulation and the Division of Economics and Finance shall include:

a. The anticipated date of the initial consolidated billing service offering in each local distribution company service territory in which the service will be offered.

b. Any changes in information provided by the competitive service provider in its original license application pursuant to 20 VAC 5-312-40 A that have not been reported to the State Corporation Commission pursuant to 20 VAC 5-312-20 Q and 20 VAC 5-312-20 R.

c. The expected maximum market penetration for the provision of consolidated billing service to electricity customers during the following 12 months, including the estimated number of customers and associated annual consumption by customer type or load profile classification.

d. A representation that the electric competitive service provider has undertaken the necessary preliminary coordination efforts with tax officials of each potentially affected locality regarding the competitive service provider's obligation to collect

and remit local consumption taxes and local utility consumer taxes.

2. The competitive service provider shall establish such financial security as the State Corporation Commission may require for such competitive service provider's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes [and local utility consumer taxes].

B. [A Subject to the exemptions applicable to municipal electric utilities and utility consumer service cooperatives set forth in § 56-581.1 J of the Code of Virginia, a] competitive service provider shall coordinate the provision of the customer-selected billing service with the local distribution company by any means specified by VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

C. Consolidated billing ~~by the local distribution company,~~ except as otherwise arranged through contractual agreement between the local distribution company and a competitive service provider or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission, shall:

1. Be performed under a "bill-ready" protocol.

2. Not require the ~~local distribution company~~ billing party to purchase the accounts receivable of the ~~competitive service provider~~ nonbilling party.

3. Not require the electric local distribution company to include natural gas competitive energy service charges on a consolidated bill or the natural gas local distribution company to include electric competitive energy service charges on a consolidated bill.

4. Not require the local distribution company to ~~receive the transmittal of~~ exchange billing information for ~~one~~ any customer account ~~from~~ with more than one competitive service provider for the same billing period.

5. ~~[Accommodate]~~ Comply with the local distribution company's normal billing and credit cycle requirements for distribution service.

D. In the event a competitive service provider collects security deposits or prepayments, such funds shall be held in escrow by a third party in Virginia, and the competitive service provider shall provide to the State Corporation Commission the name and address of the entity holding such deposits or prepayments.

E. A competitive service provider requiring a deposit or prepayment from a customer shall limit the amount of the deposit

or prepayment to the equivalent of a customer's estimated liability for no more than three months' usage of services from the competitive service provider by that customer.

F. Customer deposits held or collected by a local distribution company shall be for only those services provided by the local distribution company. Any deposit held in excess of this amount shall be promptly credited or refunded to the customer. The local distribution company may, upon a customer's return to regulated electricity supply service or natural gas supply service, collect that portion of a customer deposit as permitted by the local distribution company's tariffs and 20 VAC 5-10-20.

G. Terms and conditions concerning customer disconnection for nonpayment of regulated service charges shall be set forth in each local distribution company's tariff approved by the State Corporation Commission. A customer may not be disconnected for nonpayment of unregulated service charges. If a customer receives consolidated billing service and a competitive service provider is the billing party, the local distribution company shall advise the customer directly of any pending disconnection action for nonpayment through 10 days' notice by mail, separate from the consolidated bill. Such notice shall clearly identify the amount that must be paid and the date by which such amount

must be received by, and also provide instructions for direct payment to, the local distribution company to avoid disconnection.

H. The provision of consolidated billing service shall conform to the following requirements:

1. The ~~local distribution company~~ billing party shall apply a customer's partial payment of a consolidated bill as designated by the customer, or, in the absence of a customer's designation, to charges in the following order: (i) to regulated service arrearages owed the local distribution company; (ii) to competitive energy service arrearages owed the competitive service provider; (iii) to regulated service current charges of the local distribution company; (iv) to competitive energy service current charges of the competitive service provider; and (v) to other charges.

2. Collections of state and local consumption taxes and local utility consumer taxes shall be remitted as required by law. The person responsible for collecting and remitting such taxes shall:

a. Submit simultaneously, on or before the last day of the succeeding month of collection to the State Corporation Commission's Division of Public Service

Taxation, the payment of the preceding month's state and special regulatory consumption taxes and associated Electric Utility or Natural Gas Consumption Tax Monthly Report.

b. Submit simultaneously, [~~on or before the last day of the succeeding month of collection in~~ accordance with the Code of Virginia and local ordinance,] to each local government in whose jurisdiction the taxes have been collected, the payment of [~~the preceding month's~~] local consumption taxes and local utility consumer taxes and associated [~~monthly~~ tax remittance] reports.

I. The local distribution company and a competitive service provider shall comply with the following minimum billing information standards applicable to all customer bills:

1. Sufficient information shall be provided or referenced on the bill so that a customer can understand and calculate the billing charges.

2. Charges for regulated services and unregulated services shall be clearly distinguished.

3. Standard terminology shall be employed and charges shall be categorized for the following key bill components, as applicable: (i) distribution service; (ii) competitive

transition charge; (iii) electricity supply service or natural gas supply service; (iv) state and local consumption tax; and (v) local (or locality name) utility tax. The bill may provide further detail of each of these key components as appropriate.

4. Nonroutine charges and fees shall be itemized including late payment charges and deposit collections.

5. The total bill amount due and date by which payment must be received to avoid late payment charges shall be clearly identified.

6. The 24-hour toll-free telephone number of the local distribution company for service emergencies shall be clearly identified.

7. In the event a disconnection notice for nonpayment is included on a customer bill [issued by the local distribution company], the notice shall appear on the first page of the bill and be emphasized in a manner that draws immediate attention to such notice. The notice shall clearly identify the amount that must be paid and the date by which such amount must be paid to avoid disconnection.

8. The following additional information shall be provided on customer bills to the extent applicable:

a. Customer name, service address, billing address, account number, rate schedule identifier, and meter identification number.

b. Billing party name, payment address, and toll-free telephone number for customer inquiries and complaints.

c. For consolidated bills, nonbilling party name and toll-free telephone number for customer inquiries and complaints and the customer's local distribution company account number.

d. Bill issue date and notice of change in rates.

e. Previous and current meter readings and dates of such meter readings or metering period days, current period energy consumption, meter reading unit conversion factor, billing-demand information, and "estimated" indicator for non-actual meter reads.

f. Previous bill amount or account balance, payments received since previous billing, balance forward, current charges, total amount due or current account balance, and ~~budget-billing~~ payment plan information.

g. For consolidated bills, billing party and nonbilling party elements as specified in subdivision 8 f of this subsection.

J. The local distribution company shall comply with the following additional billing information standards applicable to the bills of customers that are not subject to demand-based billing charges and that purchase regulated electricity supply service or regulated natural gas supply service from the local distribution company:

1. The local distribution company shall employ standard terminology and categorize charges for the following key billing components: (i) distribution service; (ii) electricity supply service or natural gas supply service; (iii) state and local consumption tax; and (iv) local (or locality name) utility tax. Brief explanations of distribution service and electricity supply service or natural gas supply service shall be presented on the bill. Such explanations shall convey that distribution service is a regulated service that must be purchased from the local distribution company and that electricity supply service or natural gas supply service may be purchased from the competitive market but, if applicable, may result in a competitive transition charge;

2. The local distribution company shall provide on customer bills a customer's monthly energy consumption, numerically or graphically, for the previous 12 months; and

3. The investor-owned electric local distribution company shall provide on each bill a "price-to-compare" value, stated in cents per kilowatt-hour, representing the cost of regulated electricity supply service less the competitive transition charge, if any, that would be applicable if such service were purchased from a competitive service provider. The appropriate use and limitations of such "price-to-compare" value shall be stated on the bill.

K. The local distribution company shall develop and implement a program to provide "price-to-compare" information and assistance to customers. The local distribution company shall provide a program plan to the State Corporation Commission's Division of Energy Regulation at least 90 days prior to the implementation of full or phased-in retail access. Such a program shall ensure that customers will be provided meaningful information for evaluating competitive offers of electricity supply service or natural gas supply service. At a minimum, the program shall include a mechanism for providing, or making readily accessible, customer-specific "price-to-compare"

information, including explanations of its appropriate use and limitations and, if applicable, the relationship between the regulated electricity supply charge, the competitive transition charge, and the "price-to-compare."

L. ~~The local distribution company~~ billing party shall, except as otherwise arranged through contractual agreement ~~between the local distribution company and a competitive service provider~~ with the nonbilling party, provide sufficient space on a consolidated bill to accommodate ~~a competitive service provider's~~ the local distribution company's customer account number and the nonbilling party's name and toll-free telephone number, previous bill amount or account balance, payments applied since the previous billing, balance forward, total current charges, total amount due or current account balance, six additional numeric fields to detail current charges, and 240 additional text characters.

M. If the local distribution company, as the billing party, provides consolidated billing service to a customer and continues to be the customer's billing party after the customer's service with a competitive service provider terminates, the local distribution company shall, except as otherwise arranged through contractual agreement ~~between the local distribution company and a~~ with such competitive service

provider, continue to track and bill customer account arrearages owed to ~~former~~ such competitive service ~~providers~~ provider for two billing cycles after service has terminated. The bill shall list, at a minimum, the name, toll-free telephone number, and balance due for each former competitive service provider.

N. If the current charges of a ~~competitive service provider~~ the nonbilling party are not included on the consolidated bill issued by the ~~local distribution company~~ billing party, the bill shall note that such charges are not included.

O. If the current charges of a ~~competitive service provider~~ the nonbilling party are not included on the consolidated bill issued by the ~~local distribution company~~ billing party due to causes attributable to the ~~competitive service provider~~ nonbilling party, the charges shall be billed in the following month unless the two parties mutually agree to other arrangements.

P. If the current charges of a ~~competitive service provider~~ the nonbilling party are not included on the consolidated bill issued by the ~~local distribution company~~ billing party due to causes attributable to the ~~local distribution company~~ billing party, the bill shall be cancelled and reissued to include such charges unless the two parties mutually agree to other arrangements.

Q. The local distribution company or a competitive service provider shall report any significant deficiency regarding the timely issuance, accuracy, or completeness of customer bills to the State Corporation Commission's Division of Energy Regulation as soon as practicable. Such reports shall detail the circumstances surrounding the deficiency and the planned corrective actions.